

ENTERED

February 28, 2025

Nathan Ochsner, Clerk

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

DAVID W. GATES,

Plaintiff,

v.

LELAND C. DUDEK,¹
*Acting Commissioner of the Social Security
Administration,*

Defendant.

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CIVIL ACTION NO. H-23-3462

**MEMORANDUM AND OPINION ADOPTING MEMORANDUM AND
RECOMMENDATION AND GRANTING THE DEFENDANT'S MOTION
FOR SUMMARY JUDGMENT AND DENYING THE PLAINTIFF'S MOTION
FOR SUMMARY JUDGMENT**

The plaintiff, David W. Gates, filed this case under the Social Security Act, 42 U.S.C. § 405(g), seeking review of the Commissioner's final decision denying his request for disability insurance benefits and supplemental security income. Plaintiff and the Commissioner filed cross-motions for summary judgment. (Docket Entry Nos. 12, 14). The court has reviewed the Memorandum and Recommendation of Judge Christina A. Bryan recommending granting the Commissioner's motion, denying Gates's motion, and dismissing this case with prejudice, (Docket Entry No. 19).

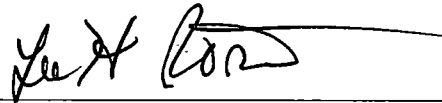
Gates filed a Title II application for disability insurance benefits and a Title XVI application for supplemental security income alleging disability beginning April 30, 2021. Following the denial of his applications and subsequent request for reconsideration, Gates requested a hearing before an Administrative Law Judge ("ALJ"). Tr. 14. Gates appeared and

¹ Leland C. Dudek became the Acting Commissioner of Social Security in February 2025. Dudek is "automatically substituted" as the defendant in this suit. Fed. R. Civ. P. 25(d); *see also* 42 U.S.C. § 405(g) ("Any action instituted in accordance with this subsection shall survive notwithstanding any change in the person occupying the office of Commissioner of Social Security or any vacancy in such office.").

was represented by counsel at a hearing on February 21, 2023, at which he and a vocational expert, Shelly Eike, testified. *Id.*; Tr. 29-49. On March 24, 2023, the ALJ issued a decision finding that Gates is not disabled under the Act. Tr. 14-23. The Appeals Council denied Gates's request for review. Tr. 1. Upon denial of review, the ALJ's decision became the final decision of the Commissioner. See 20 C.F.R. §§ 404.981, 416.1481.

The court overrules Gates's objections to Judge Bryan's recommendation, (Docket Entry No. 20), because the court agrees with Judge Bryan's conclusions that the ALJ's decision was not the result of harmful legal error and is supported by substantial evidence. The memorandum and recommendation of Judge Bryan is adopted as this court's memorandum and opinion. The court finds that the ALJ properly considered the evidence and correctly applied the applicable law. Gates's motion for summary judgment, (Docket Entry No. 12), is denied. The Commissioner's motion for summary judgment, (Docket Entry No. 14), is granted. Final judgment dismissing this case is entered by separate order.

SIGNED on February 28, 2025, at Houston, Texas.

A handwritten signature in black ink, appearing to read 'Lee H. Rosenthal', is written over a horizontal line.

Lee H. Rosenthal
Senior United States District Judge